IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFA No. 33 of 2000

Reserved on : 27th June, 2007
Date of Decision: 25th July, 2007

H.P. State Electricity Board and another	Appellants
Versus	
Smt.Sheela	Respondent

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]? No

For the appellant: Mr.Shrawan Dogra, Advocate.

For the respondent: Mr.Vinod Gupta, Advocate, vice counsel.

Sanjay Karol, J.

By way of present appeal, the appellants have assailed the judgment and decree dated 13th August, 1999, passed by District Judge, Kullu, in Civil Suit No. 7/97, titled as Sheela Devi vs. HPSEB and another.

For the sake of convenience, the parties are referred as plaintiff/respondent and defendants/appellants.

The plaintiff filed a suit for claiming Rs. 4 lacs as damages, inter alia, contending that on 18th April, 1996, when she was standing in the gallery of first floor of her house, situated at Lanka of Lanka Baker, Phati Dhalpur, District Kullu, she touched the water pipe which had electric current because of which she suffered burn injuries. 33 KV electric wires installed on the pole by the side of river Beas were damaged due to heavy floods in the year 1995 which were repaired by the defendants. But the said wires were so installed that it was in close proximity of the house of the plaintiff. Over a passage of time electric wires became loose and touched

[1] Whether the reporters of Local Papers are allowed to see the Judgment?

the water line installed in the house. The defendants have been negligent in maintaining the electric pole and the transmission lines. Due to the negligence of the defendants, the plaintiff suffered burn injuries, which resulted into amputation of right arm and thumb and middle finger of the left hand. The plaintiff undertook medical treatment in District Hospital, Kullu and thereafter at CMC Hospital, Ludhiana.

In the written statement, defendants have denied that there has been any negligence on their part and while admitting that the plaintiff resided in the house in question, they have disputed the factum of accident having taken place due to the negligence of defendant. The fact that 33 KV electric transmission line was installed by them, which was damaged due during the floods in the year 1995-96 has been admitted, but it has been clarified that defendants had repaired the electric line.

Based on the pleadings of the parties, the following issues were framed by the trial Court:-

"1. Whether the plaintiff had sustained injuries and permanent disability to her right arm and left thumb and middle finger as a result of negligence of the defendants? OPP

2. If issue No.1 is proved, to what amount of compensation, the plaintiff is entitled from the defendants? OPP

3. Whether the suit is not maintainable in the present form? OPD

4. Relief."

All the aforesaid issues were decided in favour of the plaintiff and against the defendants by the trial Court.

The plaintiff examined 13 witnesses, whereas two witnesses were examined on behalf of defendants and the documents were got exhibited by the parties.

I have perused the record of the trial Court very carefully and hearing the learned counsel for the parties.

Dr.Baldev Thakur, PW-1, has proved on record the disability certificate Ex.PA showing that plaintiff has suffered 100% disability and Dr. Neena Lal, PW-5, who first attended to the plaintiff in the Hospital has proved on record that plaintiff has suffered the following injuries:-

(1) Wound of entry both hands of electric burns. There is swelling up to elbow of right forearm and swelling up to middle of left forearm. There is one injury on left thumb, ulceration over left thumb. Vesicles present on right forearm. Both hands pallor.

(2) Wound of exit both feet. There is swelling and burns on right thigh and foot darker in the centre and pallor in the peri fery smaller than the wound of entry No.3."

She has proved MLC, Ex.PF, of the plaintiff on record whereby plaintiff was referred to State Hospital at Shimla for further treatment.

Plaintiff Sheela Devi, PW-3, has supported her case as set out in the plaint. As per her statement, it is clear that she remained admitted in the hospital for two months and 24 days at Ludhiana (Punjab) after having undergone treatment both at District and State level hospitals in the State of Himachal Pradesh. She has further proved on record that the injuries suffered were due to electric current, which was due to the loosening of 33 KV electric transmission line resulting into touching the water pipe of her house.

Nittu, PW-6, has stated that on hearing cries of the plaintiff he came out of his house and saw that plaintiff had received electric current and her clothes were burning. This version of Nittu, PW-6, has further been supported in one voice by Bangalu, PW-7 and Mohinder Singh, PW-8.

Witnesses Smt. Kamla Devi, PW-10 and Smt.Parwati Devi, PW-11, being eye witnesses have specifically supported the case of the plaintiff in one voice.

From the statements of V.S.Rawal, SDO, PW-1, and Moti Ram, DW-2, one thing which emerges is that the damage had taken place and some repairs were got carried out also. However, these witnesses were not able to categorically state as to whether damage to the electricity wires of the 33 KV transmission line near the house of the plaintiff were specifically checked and repaired.

From the statement of witnesses, it has also come on record that plaintiff's disability is 100%, her right arm, thumb and finger of left hand were amputated with nonfunctioning of hand from wrist for all times, after undergoing medical treatment at various places. It has been proved on record that plaintiff's injury was as a result of the electric shock which she received by touching the water pipe, which in turn had come in contact with the transmission wires.

I have also seen the photograph of the house of the plaintiff, which was taken by PW-9 and has been exhibited as Ex.P1. It is evident that electric wires are close to the house of the plaintiff on the side of river Beas. Even the pole is in damaged condition and obviously the plaintiff was electrocuted through the said wires.

The defendants are in the business of setting up and maintaining high voltage transmission lines through which the electric current of high voltage is transmitted. Such operations are certainly hazardous in nature and the defendants are required to take extra care and precaution as such operations can cause danger to life and property. The incident had taken place due to the acts of omission and commissions of the defendants. Sufficient evidence has come on record with regard to the

negligence of the defendants. In the present case the incident is such as in the ordinary course of things it would not have happened if the defendants, who are maintaining the high voltage electric transmission lines had taken proper care. The defendants as already stated hereinabove have not come out with sufficient explanation or evidence to show what care they had taken.

The defendants have not been able to place on record any document to show that they had taken adequate steps in maintaining the pole as also the wire after the same was damaged during the floods in 1995. As such, in my view, the defendants were negligent in maintaining the electric equipment installed in close proximity of the house of the plaintiff.

From the statements of all the witnesses and surrounding circumstances, it has been proved on record that the electric wires were loose and had touched the water pipe due to which the plaintiff had received burn injuries and suffered permanent disability.

The Court below relying upon the decision of this Court in Kumari Seemu alias Seema vs. HPSEB, reported in 1994(2) SLC 1, has awarded a sum of Rs.2,10,000/- in favour of the plaintiff as compensation for having suffered injuries and incurred medical expenses.

From the material on record, it has been proved that the aforesaid compensation has been awarded towards pain and suffering, agony and loss of amenities and enjoyment of life.

For all the aforesaid reasons, I find no irregularity and illegality to interfere with the well reasoned impugned judgment and decree. The appeal is accordingly dismissed. There shall be no order as to costs.

25th July, 2007
(C)

(Sanjay Karol)
Judge.